



Committee: Environment and Transportation

Testimony on: SB 901 “Environment – Packaging and Paper Products -- Producer Responsibility Plans”

Position: Favorable with Amendments

Hearing Date: March 27, 2025

The legislative intent of SB 901, as amended in the Senate, is to provide a framework for:

- (1) minimizing the environmental and human health impacts of packaging;
- (2) conserving resources
- (3) modernizing and improving waste and recycling systems in the State; and
- (4) making producers financially responsible for investing in the needed infrastructure and reimbursing local governments and other service providers for costs associated with transporting, collecting, and processing covered packaging materials.

These objectives are to be achieved by making packaging producers responsible for financing and implementing a program that is authorized to: reduce the amount of packaging and packaging waste; redesign packaging to be recyclable, compostable, and reusable; reduce the toxicity of packaging; increase the recycling rates and recycled content of packaging; facilitate the improvement of reuse, composting, and recycling; stimulate responsible end markets for covered packaging materials; and improve access to and the efficiency of recycling, composting, and reuse infrastructure for packaging, with special emphasis on underserved communities. Oversight of the program would be provided by the Maryland Department of the Environment (MDE).

The Sierra Club supports SB 901 and congratulates the bill sponsor for meaningful amendments adopted in the Senate to: include the objective of minimizing environmental and human health impacts of packaging; provide new definitions of recycling, environmental impact, and responsible end markets; and acknowledge the complementary role of a potential beverage container deposit-return system (DRS) in coordination with the packaging legislation. Both extended producer responsibility (EPR) for packaging bills and DRSs make producers responsible for the environmental impacts of their packaging over the life cycle of the product, and DRS programs are especially impactful in reducing beverage container litter.

We respectfully request consideration of two amendments that will strengthen accountability and performance through adoption of meaningful targets in regulation, informed by an early effort to assemble baseline data, and an independent evaluation of the program’s performance in the fifth year of implementation, which will provide evidence-based feedback and recommendations for any course-corrections. These amendments are particularly important in light of the fact that the programs adopted by five U.S. states are not yet operational, so have provided limited lessons on best practices.

The burden and environmental impact of packaging waste

Containers and packaging are a substantial share of municipal solid waste generated in the United States—28.1% by weight in 2018.¹ Only about 54% of all container and packaging materials by weight were recycled, but recycling rates vary by material, from a high of 81% for paper and cardboard packaging to a low of only 14% for plastic. Multi-layer plastic packaging, multi-resin pouches, and aseptic cartons for beverages and soups are not designed to be recyclable. Plastic film is generally not accepted for single stream recycling; it fouls equipment, becomes contaminated, and lacks a market.

¹U.S. Environmental Protection Agency. https://www.epa.gov/sites/default/files/2021-01/documents/2018_ff_fact_sheet_dec_2020_fnl_508.pdf, p. 9.

Used beverage containers, particularly plastic bottles, are a major component of litter on the land and in waterways. Only about a quarter of the 5.5 billion beverage containers sold annually in Maryland are captured for recycling; the rest are left in the environment (landfills, litter) or incinerated.² Plastic packaging escapes into the environment, where it breaks down into ever smaller particles, ingested by wildlife and people. Seven of the top ten plastic items collected in beach cleanups in the U.S. are plastic packaging or containers.³ The genesis of the efforts for producer responsibility for packaging in Maryland was largely based on concerns about the impact of plastic packaging on the environment.⁴

Producer responsibility for packaging

The Sierra Club embraces the principle of producer responsibility, in which the producer or brand owner of a product takes responsibility for minimizing the product's environmental and social impacts across all stages of the product's life cycle. Producer responsibility programs have the potential to create incentives to reduce packaging and redesign it to be reusable or recyclable. They are one of several tools to reduce packaging waste, including beverage container deposit-return programs, minimum post-consumer recycled content requirements, and bans or restrictions on single-use plastics.

Producer responsibility programs for packaging are common in Canada and Europe.⁵ However, there is limited experience with these programs in the U.S., apart from the ten states with beverage container deposit programs.⁶ Only five U.S. states (California, Colorado, Maine, Minnesota, and Oregon) have enacted producer responsibility programs for other types of packaging, and none of those states' programs are yet operational. Three of the five states (California, Maine, and Oregon) already have separate longstanding and successful beverage container deposit programs.

What the bill would do

Under SB901, packaging producers, individually or as part of a Producer Responsibility Organization (PRO), would submit a Producer Responsibility Plan to MDE. The Plan must: identify the producers and the brands of packaging covered; propose performance goals for each material type; describe the financing to implement the Plan; and indicate how the goals will be met, including reimbursement of local governments for collecting, transporting, and processing packaging materials. After approval by MDE, the Plan would be implemented by the producers or PRO.

Oversight of the program would be provided by MDE, which would be charged with reviewing and approving the Producer Responsibility Plans and annual reports. MDE would also be responsible for conducting a statewide recycling needs assessment every 10 years, financed by producers. The bill creates a Producer Responsibility Advisory Council, responsible for: advising the PRO at its request on the drafting or amendment of a Plan; reviewing the Plan and annual reports submitted by the PRO; making recommendations to MDE regarding Plan approval; and making recommendations to MDE and the PRO on implementation of the Plan.

Proposed amendments

We respectfully offer two amendments aimed at setting realistic targets and obtaining independent feedback on program performance during the first five-year Producer Responsibility Plan.

² Container Recycling Institute, Culver City, CA.

³ Food wrappers, bottle caps, plastic beverage bottles, plastic bags, lids, takeout containers (plastic and foam). 5Gyres *et al.* 2017. *Better Alternatives Now: BAN 2.0*.

⁴ HB209, Plastics and Packaging Reduction Act (2020 Maryland General Assembly Session)

⁵ Northeast Recycling Council (NERC) and Northeast Waste Management Officials' Association (NEWMOA). 2020. "White Paper: Extended Producer Responsibility (EPR) for Packaging and Paper Products." April.

⁶ California, Connecticut, Hawaii, Iowa, Maine, Massachusetts, Michigan, New York, Oregon, Vermont.

Amendment #1: Include an early exercise in the program, financed by the PRO but managed by MDE or a contractor, to quickly assemble baseline data for the main program indicators.

Justification: The program requires producers and MDE to set targets for each covered material type for the first five-year Producer Responsibility Plan on: (a) recycling rates; (b) composting rates; (c) reuse rates; (d) return rates; (e) reductions in wasted covered materials; (f) post-consumer recycled content; and (g) greenhouse gas emissions.⁷ However, the recently completed Recycling Needs Assessment does not provide the baseline information on the basis of which to set reasonable targets for most of these indicators. The program needs a way of assembling more baseline information in short order to be useful for setting realistic targets and, to the extent possible, these reasonable targets should be incorporated in rule-making by MDE, with input from the PRO and other sources. This could occur during program preparation, or even as part of the first year of the five-year Plan, allowing for retroactive adjustment of program targets in light of available baseline information.

Amendment #2: Mandate an independent evaluation of the program’s performance in meeting its objectives at the end of the first five-year Plan . The evaluation would make recommendations to the General Assembly and Governor on improving the relevance, efficacy, and efficiency of the program.

Justification: Given that we’re still learning how these programs work, with few “lessons learned” from other states, it is highly advisable to incorporate early and periodic evaluation of program performance. While there’s a proposed repeat Recycling Needs Assessment in ten years, as described it has basically the same terms of reference as the 2024-25 completed Assessment in terms of assessing needs, not program performance. There is self-evaluation implicit in the PRO’s annual reports, but no independent evaluation that looks at the performance of the entire system. The evaluation would be financed by the PRO, and the terms of reference would be proposed by MDE, with inputs from the Advisory Council, stakeholders, and the public. Suggested language for this amendment is annexed.

We respectfully request a favorable report on SB 901 with consideration of these two amendments aimed at strengthening program performance in achieving its objectives.

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Attachment: Draft evaluation amendment

⁷ §9-2505, p. 28.

Attachment: A draft independent evaluation amendment

On p. 49, renumber Section 3 as Section 4, and insert the following:

SECTION 3. AND BE IT FURTHER ENACTED, That:

- (a) The Department of the Environment shall contract with a research university or an independent third-party consultant to:
 - (1) Evaluate the implementation of this Act and its effectiveness in achieving its legislative intent and targets; and
 - (2) Make recommendations for legislative or administrative actions, if any, necessary to further the purpose of this Act.
- (b) The terms of reference for the evaluation shall be proposed by the Department after consultation with the Advisory Council, stakeholders, and the public.
- (c) The evaluation shall be financed as part of the first five-year Producer Responsibility Plan
- (d) On or before October 1, 2033, the Department shall:
 - (1) Report the findings and recommendations of the research university or independent third-party consultant to the Governor and, in accordance with § 2-1257 of the State Government Article, the Senate Education, Energy and the Environment Committee and the House Environment and Transportation Committee; and
 - (2) Post the findings and recommendations on the Department's website.